IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 1416 OF 2006

Jahangir Ajij Dhalait. ...Applicant
V/s.
The State of Maharashtra. ...Respondent

Shri Maheen Pradhan with Ms.Shubhada Khot for Applicant.
Ms.S.D. Shinde, APP for the State.

AND

CRIMINAL APPLICATION NO. 1417 OF 2006

1. Bashir Ajij Dhalait,
2. Sikandar Nijam Shaikh. ...Applicants
V/s.
The State of Maharashtra. ...Respondent

Shri Maheen Pradhan with Ms.Shubhada Khot for Applicants.
Ms.M.M. Deshmukh, APP for the State.

CORAM : V.M. KANADE, J.

DATED : APRIL 24, 2006

P.C. :-

. Heard learned Counsel for the applicants and learned APP for the State.

. Both these applications can be disposed of by a common order since they are both arising out of the same

C.R. which has been registered at Shivaji Nagar Police Station, Ichalkaranji. The brief facts are as under:-

2. It is alleged that on 7.3.2006, the applicants alongwith others arrived at the office of the Executive Engineer, MSEB, Ichalkaranji and made a representation to the complainant about the load shedding as also regarding the low voltage. It is alleged that all of them were in a agitated state of mind and demanded that they should be supplied electricity for 24 hours. Unfortunate Executive Engineer, complainant herein tried to pacify these persons. However, he was threatened that if the electricity is not supplied, they would set his office on fire. After some time, the complainant heard the sound of fire crackers burst near his office. A group of people entered the office and set it on fire, after pouring kerosene. The applicants and others were arrested and offence was registered at Shivaji Nagar Police Station. The other applicants were arrested on 7th March, 2006.

3. It is submitted that the investigation is almost

over and the incident, in question, had taken place spontaneously and the applicants had not taken any active part in setting the office on fire. It is submitted that some other unknown persons had damaged the office premises. It is submitted that the applicants are gainfully employed and they had never come to the adverse notice of the police at any time in the past and they were merely agitating their grievance before the Executive Engineer on account of the poor service which was rendered by the MSEB. Learned Counsel submitted that they are willing to make good the loss which was caused to the office though they are not responsible for the said loss and are ready to deposit an amount of Rs.5000/- towards the damage which was caused by other unknown persons. It is admitted that in the FIR, it is mentioned that property worth Rs.5000/- was damaged.

4. Learned APP, on the other hand, submitted that the applicants had committed a very serious offence and as a result of the fire, some of the bills in the said office were partly burnt. Learned APP submitted that

the investigation is almost over and the statements of the relevant witnesses have been recorded. He submitted that as many as 15 persons had seen the incident and were eye witnesses to the said incident.

5. The facts disclose that the applicants who are otherwise gainfully employed had exceeded their right of making a representation, had attempted to burn the public property. The question whether in fact the present applicants were involved or not can not be decided at this stage as there is sufficient material to indicate their involvement one way or other in the said offence. However, since there are no criminal antecedents against the applicants and they are offenders as they have taken law into their own hand, this fact cannot be ignored or overlooked while considering their application for grant of bail. It is settled position in law that the approach of the Court while considering an application for bail should not be to reject the bail as and by way of punishment for the alleged act which is committed. Since the investigation is almost over and the applicants have a permanent

residence and employment at Ichalkaranji, in my view, there are entitled to be released on bail subject to stringent conditions being imposed.

6. The applicants, therefore, be released on bail in the sum of Rs.5000/- each with one or two sureties in the like amount. The applicants shall report to the concerned police station once in a week till the chargesheet is filed and thereafter, once in a month. The applicants shall not tamper with the evidence or threaten the witnesses.

7. The trial Court shall not be influenced by any observations made by this Court while deciding the application and the same shall not be construed as an expression of opinion on merits of the case.

8. The applicant in Criminal Application No.1416/2006 pay an amount of Rs.5000/- which shall be deposited in the office of the Executive Engineer.

. The application are disposed of.

(V.M. Kanade, J.)